



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 14, 2016
MAHS Docket No.: 16-013171
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a three-way telephone conference hearing was held on October 11, 2016, from Lansing, Michigan. The Department of Health and Human Services ("Department") was represented by [REDACTED], Recoupment Specialist (RS). The Petitioner represented herself. [REDACTED], Office Supervisor, also appeared at the hearing, but she did not offer any testimony.

The Department offered the following exhibits which were admitted into evidence as **Department's Exhibit 1**: Hearing Summary (page 1), Hearing Request for Overissuance or Recoupment Action (page 2), Notice of Overissuance (page 3), Overissuance Summary (page 4), Department and Client Error Information and Repayment Agreement (page 5), Mailing Instructions (page 6), Hearing Request for Overissuance or Recoupment Action (pages 7-8), Bridges FAP-EDG Summaries and Budgets (pages 9-18), Wage Match Client Notice (pages 19-27), Notice of Case Action (pages 28-32), Simplified Six Month Review (page 33), Redetermination (pages 34-39), Case Comments-Summary (pages 40-41) and Overissuance Referral (page 42).

Petitioner did not have any exhibits that were admitted into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did Petitioner receive an over-issuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a recipient of FAP benefits from the Department with a monthly allotment of \$[REDACTED] in March 2016 and \$[REDACTED] in April 2016. [Department's Exhibit 1, pp. 28-32].
2. Petitioner had a household group size of 5. [Dept. Exh. 1, p. 10].
3. Petitioner was employed at [REDACTED] ("[REDACTED]") during the relevant time period. [Dept. Exh. 1, p. 21].
4. Petitioner was a Simplified Reporter (SR) who was required to report to the Department, by the 10th day of the following month, when her monthly income exceeded \$[REDACTED]. [Dept. Exh. 1, p. 30].
5. On November 16, 2015, Petitioner left a message with her caseworker and reported that she may have exceeded the \$[REDACTED] SR limit for October 2015. [Dept. Exh. 1, p. 41].
6. On January 11, 2016, Petitioner left a message with her caseworker and reported that she exceeded the SR limit for December 2015. [Dept. Exh. 1, p. 41].
7. Petitioner called her caseworker on April 8, 2016, and left a message indicating that she exceeded the SR limit for March 2016, and expected to exceed the SR limit in April 2016. [Petitioner's Hearing Testimony].
8. On May 13, 2016, the Department received a completed Wage Match Client Notice (DHS-4638) from [REDACTED] which indicated that Petitioner earned \$[REDACTED] from October 1, 2015, to May 13, 2016. [Dept. Exh. 1, pp. 19-27].
9. The Department alleges Petitioner received a \$[REDACTED] OI during the period of March 1, 2016, through April 30, 2016, due to a client error. [Dept. Exh. 1, pp. 3-4].
10. On August 3, 2016, the Department mailed Petitioner a Notice of Overissuance, Overissuance Summary, Department and Client Error Information and Repayment Agreement and a Hearing Request for Overissuance or Recoupment Action. [Dept. Exh. 1, pp. 3-8].

11. On August 16, 2016, the Department received Petitioner's completed Hearing Request for Overissuance or Recoupment Action, which challenges the Department's determination. [Dept. Exh. 1, p. 2].
12. Petitioner has been inactive for FAP benefits since October 1, 2016. [Recoupment Specialist Hearing Testimony].
13. Petitioner exceeded the SR limit of \$ [REDACTED] for the months of October 2015, December 2015, March 2016, and April 2016. [Dept. Exh. 1, pp. 40-41].
14. Petitioner received an OI in the amount of \$ [REDACTED] during the period of March 1, 2010, through April 30, 2016.
15. The OI was due to a client error because Petitioner failed to timely report that she exceeded the SR limit.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001 to .3015.

In this matter, the Department RS testified that Petitioner received a \$ [REDACTED] OI of FAP benefits after she failed to timely notify the Department that her monthly household income exceeded the Simplified Reporting limit of \$ [REDACTED]. As a result, the Department takes the position that Petitioner received an OI of FAP due to a client error and that she owes the Department \$ [REDACTED] in FAP benefits from the period of March 1, 2016, through April 30, 2016. Petitioner, on the other hand, stated that she called her caseworker on April 8, 2016, and reported that she exceeded the SR limit for March and that she expected to exceed the SR limit in April as well. Although Petitioner disagreed that she received a FAP OI, she did not dispute the income amounts that the Department has calculated.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (1-1-2016), p. 1. An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was

eligible to receive. BAM 700, p. 1. **Recoupment** is a MDHHS action to identify and recover a benefit overissuance. BAM 700, p. 2.

BAM 700 indicates that the three types of overissuances are agency error, client error and CDC provider error. BAM 700, pp. 4-8. An **agency error** is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes. BAM 700, p. 4. [Emphasis added]. For FIP, SDA, CDC and FAP, agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p. 6. [Emphasis added].

BAM 715 (1-1-2016) explains client error overissuance processing and establishment. For FAP, Bridges determines the first month of the overissuance as two months after the actual monthly income exceeded the simplified reporting (SR) limit. This accounts for the 10 days to report by the client, the 10 days for the specialist to act on the change and the 12-day negative action period; see BAM 200. BAM 715, p. 5.

Example: The group's income for April exceeded the SR limit. The group should have reported this by May 10, but did not. June is the first month of the overissuance. BAM 715, p. 5.

If the income falls below the income limit any time during these two months **and** does not exceed the income limit again during the certification period, recoupment is not necessary. If it does exceed the income limit **again** during the certification period and the client does not report, all months that exceeded the limit after the first two months would be recouped. BAM 715, p. 5. [Emphasis in original].

Example: Bert started a job and called his specialist to report the hours and wages. Bert is put in SR in February and was sent a letter stating his income limit. After a week he gets an increase in hours which puts him over the limit. He does not report. In April the hours were reduced putting him under the income limit. In May Bert is promoted and goes over the income limit and again does not report. The last week of June he is demoted. Bert's overissuance period would be May and June. BAM 715, p. 5.

For FAP, for client error overissuances due, at least in part, to failure to report earnings, do **not** allow the 20 percent earned income deduction on the unreported earnings. BAM 715, p. 8.

Simplified reporting (SR) groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. BAM 200 (12-1-2013), p. 1. [Emphasis added]. If the group has an increase in income, the group must determine their total gross income at the end of that month. BAM 200, p. 1. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next

business day if the 10th day falls on a weekend or holiday. BAM 200, p. 1. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR. BAM 200, p. 1.

The only client error overissuances related to simplified reporting that can occur for FAP groups in SR are when the group fails to report that income exceeds the group's SR income limit, or the client voluntarily reports inaccurate information. BAM 200, p. 5. [Emphasis added]. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, p. 5. Groups report if their actual income for a month exceeds 130 percent of poverty level. SR does **not** affect the determination of agency error overissuances. BAM 200, p. 6.

Here, there is no dispute that Petitioner was a simplified reporter who was required to report when her monthly household limit exceeds \$ [REDACTED] regarding her FAP benefits. Based on the above findings of fact, this Administrative Law Judge finds that Petitioner failed to timely report that she had exceeded the SR limit in October 2015 when she reported it to her caseworker on November 16, 2015, which was after the 10th of the month. [Dept. Exh. 1, p. 41]. This Administrative Law Judge also finds that Petitioner also failed to timely report that she exceeded the SR limit in December 2015 when she left a message with her caseworker on January 11, 2016. [Dept. Exh. 1, p. 41]. However, this Administrative Law Judge also finds that Petitioner's statements that, on April 8, 2016, she called and reported to her caseworker that she exceed the SR limit in March 2016, and possibly for April 2016, is credible. This means that Petitioner has not committed an Intentional Program Violation; however, this does not necessarily mean that Petitioner did not receive an OI of FAP benefits due to client error. During the hearing, Petitioner did not specifically challenge the Department's calculations of her income amounts for the months of March and April 2016. This is fairly considered to be a client error due to the failure to timely report that she exceeded the SR limits for October and December 2015.

There is no dispute that Petitioner received \$ [REDACTED] in FAP benefits in March 2016 and \$ [REDACTED] in FAP for April 2016. [Dept. Exh. 1, p. 4]. Although Petitioner asserted that she did not receive an OI, she did not dispute the Department's calculations of her household income amounts during the period in question. In this record, the Department included detailed FAP budgets which demonstrate that the OI was calculated properly. [Dept. Exh. 1, pp. 9-18]. The record evidence shows that Petitioner did, in fact receive an OI of FAP benefits in the amount of \$ [REDACTED] for the months of March and April 2016. Based on the findings of fact above and all of the evidence, this Administrative Law Judge finds that Petitioner received an OI of FAP benefits during the OI period (March 1, 2016 to April 30, 2016).

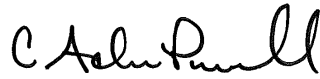
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Petitioner totaling \$ [REDACTED] during the period of March 1, 2016, through April 30, 2016.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

IT IS ORDERED that the Department **may** initiate collection procedures for a \$ [REDACTED] OI of FAP benefits in accordance with Department policy.

CAP/mc



C. Adam Purnell

Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]